

REMARKS/ARGUMENTS

In response to the restriction requirement mailed on March 10, 2004, Applicants elect with traverse Group J, claims 15, 16, 28, 29, 44-45, 50, and 51; drawn to commercial scale methods of sialylating a glycoprotein using *C. jejuni* 2,3 sialyltransferase.

Claims 1-59 are cancelled without prejudice to subsequent revival and new claims 60-83 are added. The new claims are drawn to commercial scale methods of sialylating a glycoprotein using a bacterial sialyltransferase. Support for the new claims is found throughout the application, for example at page 9, line 12 though page 10 line 2; at Table 1, at page 10; at page 22 line 18 through page 25, line 4, at Table 4, page 24, and at original claims 12-20, 23-31, 32-36, and 45-56. Applicants submit that claims 65, 66, 69, 77, and 78 correspond to the elected species.

The foregoing election is made with traverse. Applicants request that Groups G, H, and I, commercial scale methods of sialylating a glycoprotein using sialyltransferases from *N. meningitidis*, *P. damsela*, and *Heamophilus* bacteria; and Group J, commercial scale methods of sialylating a glycoprotein using *C. jejuni* bacterial sialyltransferase, be examined together, as all the required method steps in Groups G-I are also found in Group J, and all the methods require use of a bacterial sialyltransferase.

Applicants also assert that, at the very least, new claim 60 (corresponding to original claims 12 and 23) and new claim 69 (corresponding to original claim 44) are genus claims, which recite use of bacterial sialyltransferases, and link dependent claims, which recite use of particular bacterial species, *i.e.*, *C. jejuni*, *N. meningitidis*, *P. damsela*, and *Heamophilus*. As such, upon allowance of a linking genus claim, the restriction requirement should be withdrawn with respect to the species claims. MPEP 809.03. Applicants further note that when the requirement for restriction is predicated upon the non-allowability of a generic linking claim, Applicant is entitled to retain in the case claims to the non-elected invention. If the generic linking claim is allowed, the Examiner must then examine non-elected claims to species falling within the genus. MPEP 809.04.

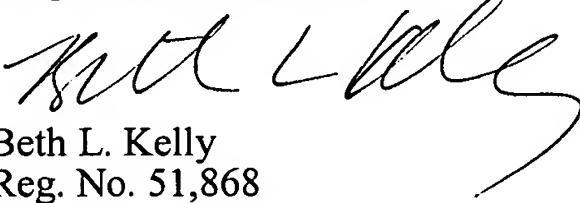
Finally, restriction of an application is discretionary. A restriction requirement is made to avoid placing an undue examination burden on the Examiner and the Office. Where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. MPEP 803.01. Applicants respectfully submit that examining the claims of Groups G, H, I, and J together (commercial scale methods of sialylating a glycoprotein using a bacterial sialyltransferase) would not place and undue burden on the Examiner. Applicants therefore respectfully request that the restriction requirement with respect to Group J and Groups G, H, and I be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


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